

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 375

Introduced by Assembly Member Skinner

February 14, 2011

An act to add Section 3212.13 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, as amended, Skinner. ~~Hospital~~ *Workers' compensation: hospital employees: presumption.*

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain public employees, the term "injury" includes heart trouble, hernia, pneumonia, human immunodeficiency virus, lower back impairment, and other injuries and diseases.

This bill would provide, with respect to hospital employees who provide direct patient care in an acute care hospital, that the term "injury" includes a bloodborne infectious disease, *as defined*, or methicillin-resistant *Staphylococcus aureus* (MRSA) that develops or manifests itself during the period of the person's employment with the hospital.

This bill would further create a ~~rebuttable~~ *disputable* presumption that the above injury arises out of and in the course of the person's employment if it develops or manifests as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) According to the United States Department of Labor, health
4 care is the second fastest growing sector of the United States
5 economy, employing over 12 million workers. Women represent
6 nearly 80 percent of the health care work force.

7 (b) By the nature of their profession, health care workers are in
8 constant danger of being directly exposed to many infectious
9 diseases and indirectly exposed through contact with various pieces
10 of equipment, chemicals, and clothing.

11 (c) Registered nurses constitute the largest occupation within
12 the health care sector and number over 2.5 million, of which 70
13 percent are employed in hospitals.

14 (d) In 2008, nearly two-thirds of nurses reported needlestick
15 and other percutaneous injuries and studies show that injuries have
16 increased 6.5 percent in surgical settings.

17 (e) Health care acquired infections in California hospitals
18 account for an estimated 200,000 infections and 12,000 deaths
19 annually, according to the State Department of Public Health.

20 (f) According to the Office of Statewide Health Planning and
21 Development, in 2007 there were 52,000 cases of MRSA-infected
22 patients at hospitals across the state.

23 (g) Public safety employees, such as police officers and
24 firefighters, already have guaranteed access to the workers'
25 compensation system for MRSA, HIV, cancer, leukemia,
26 meningitis, back injuries, and other work-related illnesses and
27 injuries. However, presumptive eligibility for workers'
28 compensation is nonexistent for health care workers.

29 (h) Due to the rise in work-related illnesses and injuries,
30 including MRSA and other bloodborne diseases, it is most
31 appropriate to protect health care workers by ensuring access to
32 workers' compensation for health care workers who suffer
33 workplace injuries or contract infectious diseases.

34 SEC. 2. Section 3212.13 is added to the Labor Code, to read:

1 3212.13. (a) In the case of a hospital employee who provides
2 direct patient care in an acute care hospital, referred to in this
3 section as hospital employee, the term “injury,” as used in this
4 section, includes a bloodborne infectious disease or
5 methicillin-resistant *Staphylococcus aureus* (MRSA) that develops
6 or manifests itself during a period of the person’s employment
7 with the hospital. The compensation awarded for that injury shall
8 include full hospital, surgical, medical treatment, disability
9 indemnity, and death benefits, as provided by this division.

10 (b) (1) The bloodborne infectious disease or MRSA so
11 developing or manifesting itself shall be presumed to arise out of
12 and in the course of employment. This presumption is disputable
13 and may be controverted by other evidence, but unless so
14 controverted, the appeals board shall so find.

15 (2) The bloodborne infectious disease presumption shall be
16 extended to a hospital employee following termination of service
17 for a period of 180 days, commencing with the last date actually
18 worked.

19 (3) The MRSA-presumptions *presumption* shall be extended to
20 a hospital employee following termination of service for a period
21 of 90 days, commencing with the last day actually worked.

22 (c) A bloodborne infectious disease so developing or manifesting
23 itself in these cases shall not be attributed to any disease existing
24 prior to that development or manifestation.

25 (d) *For the purposes of this section, “bloodborne infectious*
26 *disease” means a disease caused by exposure to pathogenic*
27 *microorganisms that are present in human blood that can cause*
28 *disease in humans, including those pathogenic microorganisms*
29 *defined as bloodborne pathogens by the Department of Industrial*
30 *Relations.*